

3993 Howard Hughes Parkway, Suite 600
Las Vegas, NV 89169-5996
Facsimile (702) 949-8321
Telephone (702) 949-8320

Robert M. Charles, Jr. NV State Bar No. 006593
Email: rcharles@lrlaw.com
John Hinderaker AZ State Bar No. 018024
Email: jhinderaker@lrlaw.com

Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,¹

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**NOTICE OF HEARING RE
OMNIBUS OBJECTION OF USACM
TRUST TO PROOFS OF CLAIM
BASED UPON INVESTMENT IN
THE GARDENS \$2.425 LOAN**

Date of Hearing: October 21, 2010
Time of Hearing: 9:30 a.m.
Estimated Time For Hearing: 10 minutes

**THE USACM LIQUIDATING TRUST IS OBJECTING TO THE CLAIM
THAT YOU FILED. THE USACM TRUST SEEKS TO DISALLOW YOUR
CLAIM TO THE EXTENT IT IS BASED UPON AN INVESTMENT IN THE
GARDENS \$2.425 LOAN. THE USACM TRUST CONTENDS THAT YOU DO**

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 NOT HAVE A VALID CLAIM BASED UPON YOUR INVESTMENT IN THIS
2 LOAN BECAUSE YOU TOOK A KNOWN AND OBVIOUS RISK IN MAKING
3 THAT INVESTMENT AND USACM DID NOT GUARANTEE REPAYMENT OF
4 THAT LOAN. THIS OBJECTION WILL NOT IMPACT YOUR CLAIM TO THE
5 EXTENT IT IS BASED UPON AN INVESTMENT IN A DIFFERENT LOAN.

6 **PLEASE DO NOT CONTACT THE CLERK OF THE BANKRUPTCY**
7 **COURT TO DISCUSS THE MERITS OF YOUR CLAIM.** QUESTIONS
8 REGARDING THE AMOUNT OF A CLAIM OR THE FILING OF A CLAIM
9 SHOULD BE DIRECTED TO BRANT FYLLING AT SIERRA GROUP
10 CONSULTING, LLC (602-424-7009) OR TO UNDERSIGNED COUNSEL, JOHN
11 HINDERAKER (520-629-4430).

12 NOTICE IS HEREBY GIVEN that the USACM Liquidating Trust, by and
13 through its counsel, has filed its Omnibus Objections to Proofs of Claim Based Upon
14 Investment in the Gardens \$2.425 Loan (with Certificate of Service) (the "Objection").
15 Your Proof of Claim number and other information regarding your claim is provided in
16 **Exhibit A**, attached to the Objection. The USACM Liquidating Trust has requested that
17 this Court enter an order, pursuant to section 502 of title 11 of the United States Code (the
18 "Bankruptcy Code") and Rule 3007 of the Federal Rules of Bankruptcy Procedure (the
19 "Bankruptcy Rules"), disallowing your Proof of Claim to the extent it is based upon an
20 investment in the Gardens \$2.425 Loan. The Objection will not impact your Claim to the
21 extent it is based upon an investment in a different loan.

22 NOTICE IS FURTHER GIVEN that the hearing on the Objection will be held
23 before the Honorable Linda B. Riegle, U.S. Bankruptcy Court Judge in the Foley Federal
24 Building, 300 Las Vegas Blvd. South, 3rd Floor, Courtroom No. 1, Las Vegas, Nevada on
25 **October 21, 2010, at the hour of 9:30 a.m.**
26

1 NOTICE IS FURTHER GIVEN THAT THE HEARING SET ON OCTOBER
2 21, 2010, WILL BE HELD FOR THE PURPOSE OF STATUS CHECKS AND
3 SCHEDULING EVIDENTIARY HEARINGS ONLY. NO ARGUMENTS WILL BE
4 HEARD ON THAT DATE.

5 NOTICE IS FURTHER GIVEN that pursuant to Local Rule 9014(d), any
6 response to the objection must be filed and service must be completed no later than
7 **fourteen (14) days** preceding the hearing date. The opposition must set forth all relevant
8 facts and any relevant legal authority.

9 If you object to the relief requested, you *must* file a **WRITTEN** response to this
10 pleading with the Court. You *must* also serve your written response on the person who
11 sent you this notice.

12 If you do not file a written response with the Court, or if you do not serve your
13 written response on the person who sent you this notice, then:

- 14 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
15 • The Court may *rule against you* and sustain the objection without formally
16 calling the matter at the hearing.

17 Dated: September 9, 2010.

18 LEWIS AND ROCA LLP

19 By s/John Hinderaker (AZ 18024)
Robert M. Charles, Jr., NV 6593
John Hinderaker, AZ 18024 (*pro hac vice*)
20 3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169
21 E-mail: JHinderaker@lrlaw.com
Attorneys for the USACM Liquidating Trust

22 Copy of the foregoing mailed by first
23 class postage prepaid U.S. Mail on
24 September 9, 2010 to all parties listed on
Exhibit A attached to the objection.

25 LEWIS AND ROCA LLP

26 s/ Leilani Ebanks
Leilani Ebanks